

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

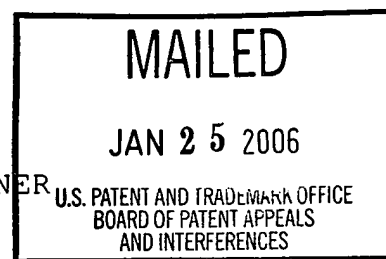
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FLORIBERTUS C.H. MOKVELD and JEAN H.M. BEUGELS

Application No. 09/842,373

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was electronically received at the Board of Patent Appeals and Interferences on January 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

A review of the file indicates that on March 25, 2005, the examiner entered an Examiner's Answer in response to appellants' Brief. However, the Answer reveals that there is no clear indication that an appeal conference was held because the Answer does not contain both sets of conferee's initials as specified in Section 1208 of the **Manual of Patent Examining Procedure (MPEP)**.

The (MPEP) § 1208 clearly states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.** [Emphasis added.]

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Further review of the Examiner's Answer mailed March 25, 2005 reveals that the Answer is non-compliant with the new rules set forth in 37 CFR § 41.39 effective September 13, 2004. The following headings are mislabeled in the order and with the context stated in the rules:

"(5) **Summary of Invention**" should be Summary of the Claimed Subject Matter;

"(6) **Claims Appealed**" should be Claims Appendix; and

"(7) **Prior Art of Record**" should be Evidence Relied Upon.

Attention and correction is required pertaining to the missing conferee signatures and the proper headings in the Examiner's Answer.

INFORMATION DISCLOSURE STATEMENT

Appellants filed an Information Disclosure Statement (IDS) on April 26, 2001. It is not clear from the record whether the

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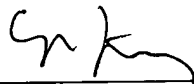
examiner considered the statement submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- 1) submit a new examiner's answer to include all the proper headings in the proper order in accordance with 37 CFR § 41.39;
- 2) provide sufficient proof that an appeal conference was held in accordance with the above instruction;
- 3) have a complete copy of the new answer and any subsequent answer scanned into the record;
- 4) have the IDS received by the Office on April 26, 2001 considered and notify appellants of said consideration; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



CRAIG R. FEINBERG
Program and Resource Administrator
(571) 272-9797

CRF:hh

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MAYER, BROWN, ROWE & MAW, LLP
1909 K STREET, N.W.
WASHINGTON, D.C. 20006